



## TOWN OF NEW WINDSOR

### ZONING BOARD OF APPEALS

Regular Session

Date: MAY 24, 2004

### AGENDA

RECEIVED

MAY 18 2004

7:30 p.m. – Roll Call

Motion to accept minutes of APRIL 12, 2004 meetings as written.

#### PRELIMINARY MEETINGS:

1. **DELTA GAMMA CORP. (for Catherine Anderson) (04-36)** Request for 70 ft. Road Frontage for a building lot (Use A-6) at 308 Elm Drive in an R-4 Zone (63-3-2.3)
2. **ROBERT COMPASSO, JR. (04-37)** Request for 5.3 ft. Front Yard Setback (48-12 bulk table R-3, column 7E) for proposed covered front porch at 362 Riley Road in an R-3 Zone (36-1-29)
3. **MICHAEL DIAZ (04-38)** Request for 8 ft. Rear Yard Setback (48-21, G1) for proposed above ground pool at 94 Creamery Drive in a CL-1 Zone (80-2-9)
4. **STEVEN SEGRETI (04-39)** Request for second kitchen in single family home for home occupation (48-37) at 7 Forest Lane in an R-4 Zone (59-1-1.3)

#### PUBLIC HEARINGS:

5. **RUSSELL KOGGE (04-27)** Request for 12 ft. Side Yard Setback (Bulk Tables F-8) for existing attached pool deck at 9 Woodlawn Avenue in an R-4 Zone (21-4-4)
6. **ANDREW FARAONE (04-28)** Request for 9 ft. Rear Yard Setback (48-14-A-1-B) for proposed 25 ft. X 20 ft. pool deck at 6 Guernsey Drive in a CL Zone (78-2-22)
7. **DARRELL SORACE (04-30)** Request for 5.1 ft. Front Yard Setback for proposed 6 ft. X 30 ft. front porch (Use: E-8) at 239 Daniher Avenue in an R-4 Zone (24-3-28)
8. **GEORGE KAISER (04-31)** Request for 2 ft. Maximum Height for existing 6 ft. fence on a corner lot (48-14-C-1-1) at 24 Split Tree Drive in an R-4 Zone (46-1-22)
9. **STRATEGIC HOMES (04-29)** Request for 1,790 sq. ft. Lot Area for proposed single-family dwelling on Sycamore Drive in an R-4 Zone (63-4-9.2)

#### DISCUSSION:

HIGHVIEW ESTATES – KINGS ROAD (MIKE BABCOCK)

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

MAY 24, 2004

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN  
MICHAEL REIS  
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

MYRA MASON  
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD  
JOSEPH MINUTA  
MYRA MASON

REGULAR MEETING

MR. KANE: I'd like to call to order the May 24, 2004 meeting of the New Windsor Zoning Board.

ACCEPTANCE OF MINUTES DATED APRIL 12, 2004

MR. KANE: Motion to accept the minutes of April 12, 2004 as written.

MR. RIVERA: So moved.

MR. REIS: Second it.

May 24, 2004

2

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE

PRELIMINARY MEETINGS:

DELTA GAMMA CORP. (FOR CATHERINE ANDERSON) (04-36)

MR. KANE: Request for 70 foot road frontage for a building lot at 308 Elm Drive. Come up, tell us what you want to do. Please speak loudly enough so that the young lady over here can hear you.

MR. POWELL: I'm Lou Powell from Eustance and Horowitz. We're engineers for Delta Gamma, which is the applicant. The owner is Catherine Anderson Rose. It's a grandfathered lot on a paper street known as Elm Drive, I think it's 308 Elm Drive and it has no legal street frontage. They have been in contact with the Town, the Town owns Elm Drive, they have been in contact with the Town to acquire an easement for access for a driveway. Apparently, they have come to some understanding of a price, I don't know if that's transpired or not but if they get the variance they'll also get that easement. The house is big enough that the proposed house would meet all setback requirements, so the only question is the legal street frontage of 70 feet.

MR. KANE: Looking at the lot width, Mike, is that what we're talking about here?

MR. BABCOCK: Actually, since there's no road, actually no road in front of this property, no built road so therefore we're saying it has no road frontage and they have come to the Town to make an agreement with the Town to have an easement off Elm Drive with a driveway and the Town has told them that they're going to have to get this variance, they're going to have to purchase the easement agreement.

MR. KANE: So it's just for the road frontage?

MR. BABCOCK: Right.

MR. KANE: Looking at the drawing, his proposed and required on lot width looks a little different, does that need to be squared away here?

MR. POWELL: It's a grandfathered lot, so I don't know if it does or not.

MR. KANE: Even if it is grandfathered, we can get the paperwork so the homeowner doesn't have a problem later on with the banks, so if they see something, we can get it on record that it is grandfathered in, that's the right thing to do, clear it up as long as they're in here.

MR. BABCOCK: You're correct.

MR. POWELL: The lot width is 125 and it's only 108.

MR. KANE: This way everything's clean on the lot and the homeowner doesn't have to run into anything, makes sense.

MR. POWELL: Makes sense.

MR. KANE: So for the application, you want to add?

MR. BABCOCK: Seventeen foot lot width.

MR. KANE: Should we, we should just put that in as a variance, even though it's grandfathered in but we'll give it since it's grandfathered in and handle it that way.

MR. BABCOCK: Yes.

MR. KANE: Did you follow that Mike, Steve?

MR. RIVERA: Yes.

MR. REIS: Yes.

MR. KANE: Obviously, you're going to be cutting down a few trees and some shrubbery, anything substantial in the building of this house?

MR. POWELL: No, the lot is wooded so--

MR. KANE: But you feel that with cutting down what you've got to cut down you're not going to substantially change the character of the neighborhood?

MR. POWELL: No.

MR. KANE: Create any water hazards or runoffs--

MR. POWELL: No.

MR. KANE: --in the building of it that you know of at this point?

MR. POWELL: No.

MR. REIS: Excuse me, Mr. Chairman, Mike, just a point of information, lot area required is one acre?

MR. BABCOCK: No, that's today's requirements.

MR. REIS: And they have 26,300 for the same reason we should incorporate that into the variance?

MR. BABCOCK: Well, that's an issue, right now, today's zoning which will come into effect October 4 of 2004 that's the three year grace period for this lot so at today's zoning it's 21,790.

MR. KANE: So he's actually over.

MR. BABCOCK: Yeah.

MR. KANE: So we won't need to do anything on that?

MR. BABCOCK: No.

MR. REIS: Thank you.

MR. KANE: Gentlemen, do you have any other questions?

MR. RIVERA: Accept a motion?

MR. KANE: Yes, I will, Steve.

MR. RIVERA: Make a motion that we set up Delta Gamma Corporation for Catherine Anderson requested 70 foot road frontage for a building lot at 308 Elm Drive.

MR. KANE: Can we amend that to say 70 foot road frontage plus 17 foot lot width?

MR. RIVERA: Yes.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE

ROBERT COMPASSO, JR (04-37)

MR. KANE: Request for 5.3 foot front yard setback for proposed covered front porch at 362 Riley Road in an R-3 zone.

Mr. Robert Compasso appeared before the board for this proposal.

MR. KANE: Tell us what you need to do.

MR. COMPASSO: We want to remove the five foot by six foot uncovered front porch and replace it with a 6 foot by 27 foot covered front porch.

MR. KANE: With putting in the front porch not going to be cutting down any trees, I know I see the pictures but I have to ask the questions, not cutting down any trees or substantial shrubbery?

MR. COMPASSO: No.

MR. KANE: Creating any water hazards or runoffs?

MR. COMPASSO: No.

MR. KANE: Obviously without a front porch there it would be considered a safety hazard walking out your front door?

MR. COMPASSO: Probably.

MR. REIS: You're not going over any easements or right-of-ways?

MR. COMPASSO: No.

MR. KANE: With putting on the proposed covered front porch, is that going to make that front of the house come any closer to the road than other homes in your



neighborhood? It's going to extend further passed that?

MR. COMPASSO: The one on the right of me is the same, they're actually closer, apparently changed the zoning.

MR. KANE: So adding this on is not going to change the character of the neighborhood?

MR. COMPASSO: No, it's eight inches out from the existing porch.

MR. KANE: And you won't be creating any water hazards or runoffs with the building of it?

MR. COMPASSO: No.

MR. KANE: Be similar to other porches in the neighborhood in size?

MR. COMPASSO: Yes.

MR. KANE: Mike, Steve?

MR. REIS: Accept a motion?

MR. KANE: Any easements running through the front porch?

MR. COMPASSO: No.

MR. KANE: Yes, I will.

MR. REIS: I make a motion that we present Robert Compasso to a public hearing for his requested variances at 362 Riley Road.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE

MR. KANE: The Town of New Windsor does hold a preliminary meeting so you can get an idea of what we need and we can see what you want to do. A lot of towns you walk in cold and you apply for that permit, if you don't have the right information and stuff, you either pass or fail right there. So what we're trying to do is give you an idea of what we need to see from you to be able to work with you to get your appeal through so when you come back for the public hearing, we're going to be doing the same things, basically asking the same thing on record cause by law in New York State, everything has to be done in a public hearing so that's why we do a preliminary first.

MR. COMPASSO: Thank you.

MICHAEL DIAZ (04-38)

Mr. Michael Diaz appeared before the board for this proposal.

MR. KANE: Request for an eight foot rear yard setback for proposed above-ground pool at 94 Creamery Drive. Tell us what you want to do, sir.

MR. DIAZ: The old pool broke, we took it down, we'd like to propose, it's eight foot round bigger, instead of a 21 foot, we want to put a 28 foot up since we're two foot from two of the neighbors' fences, they said we need a variance.

MR. KANE: That will put you at eight foot from the fence and you need to be ten?

MR. DIAZ: Right.

MR. BABCOCK: Actually, two foot, Mr. Chairman, he's going to be two foot from his fence, he needs 8.

MR. KANE: The other thing I was talking to Michael about a little earlier that I saw is Mike, do we have a permit on the deck?

MR. BABCOCK: Yes.

MR. KANE: Everything is cool on that?

MR. BABCOCK: Yes and he has a certificate on the old pool and old deck so everything has been taken care of.

MR. KANE: If we see something, we try and clear it up.

MR. DIAZ: I just bought the house and this is what it came with already and I just, the pool broke and we have to replace it.

MR. KANE: Just look at the corner, looking at 40 but everything passes the setbacks, if people come in, they're spending the money to get it clean, if we see something we want to do it all at once so you don't have to come back, but that's a moot point.

MR. DIAZ: It's exactly where it was before.

MR. KANE: There's obviously no cutting down of trees or shrubbery?

MR. DIAZ: No.

MR. KANE: Not creating any water hazards or runoffs?

MR. DIAZ: No, my neighbors' properties are uphill anyway, they leak on me.

MR. KANE: This is the safest spot in your yard?

MR. DIAZ: Yeah.

MR. KANE: No easements where the pool is?

MR. DIAZ: No, it's all flat land.

MR. KANE: Mike, Steve, any questions?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: I make a motion that we set up Michael Diaz for his requested variance at 94 Creamery Drive.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA                      AYE

May 24, 2004

12

MR. REIS  
MR. KANE

AYE  
AYE

STEVEN SEGRETI (04-39)

Mr. Steven Segreti appeared before the board for this proposal.

MR. KANE: Request for second kitchen in a single family home for home occupation.

MR. SEGRETI: Good evening.

MR. KANE: Tell us what you want to do.

MR. SEGRETI: My name is Steven Segreti, I live at 7 Forest Lane. My wife started an at-home business making cheesecakes for family and friends and through word of mouth, it expanded where a commercial customer wanted to acquire her cheesecakes. So we contacted the health department because it needs to be health department certified to make cheesecakes and they gave us a list of criteria for the kitchen to have which our regular kitchen doesn't have. So we wanted to take half our garage and make it into the kitchen that satisfies the health department so we can hopefully get her business moving in a direction where we can open a shop one day.

MR. KANE: Our concern on some of these, especially with second kitchens in the home is that nobody is going to be using this to have an apartment in their home, so that's something that we'll cover and ask you on record in the public hearing that that's not something that you're going to do, okay. Are you going to be having a second meter for electric or are you going to run it off the main house?

MR. SEGRETI: Off my regular meter.

MR. KANE: Any locked doors between the main house and where this is going to be or just open up a regular door to go into the home?

MR. SEGRETI: Actually from the one car garage it will enter into the--

MR. KANE: So the whole one car garage is going to become the kitchen?

MR. SEGRETI: It's a two car garage and half of it will be the kitchen and you'll have to exit the house to go into the garage and from the garage you'll go into the kitchen, the new kitchen.

MR. KANE: So it's not going to be connected, you'll have to go through the garage to get into the kitchen, it's going to be totally separate?

MR. SEGRETI: Yes.

MR. KANE: We'll ask you in the public hearing to state for the record and legally that you won't be using it as an apartment.

MR. SEGRETI: No.

MR. KANE: I don't think we need to cover trees.

MR. SEGRETI: The outside is not going to change other than the one door will get closed up.

MR. KANE: Mike, Steve?

MR. REIS: Just again just a point of information, Mike, are we all clear as far as zoning?

MR. BABCOCK: Yeah, it's a home occupation. I think you talked a little or your wife has talked a little bit about it and how much of the floor he can occupy and so on and so forth and he's got pretty much that, I've got all the highlighted stuff here, I assume that they told you and the reason he's here tonight is cause

he wants to put the second kitchen in, we want to make sure the board is there, he cannot have a restaurant in his house, he can't have any on premise consumption of the food, I don't really know how they're going to distribute the cakes.

MR. SEGRETII: She delivers it to the customers.

MR. KANE: Then I'll probably look for at the public hearing that there's just an addendum to if the board decides to approve it that variances go with the home and I want to make sure that that kitchen, that garage will never be converted to an apartment. So we'll probably put some addendum if we do.

MR. SEGRETII: Hopefully when we open the shop it will become the kids' playroom.

MR. KANE: Any questions?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we set up Steven Segreti for a public hearing for his request for a second kitchen at 7 Forest Lane.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE



PUBLIC HEARINGS:

RUSSELL KOGGE (04-27)

MR. KANE: Request for 12 foot side yard setback for existing pool deck at 9 Woodlawn Avenue. Is there anybody in the audience for this particular hearing? Thank you. Tell us and your name.

MS. DRENNAN: Phyllis Drennan with Remax, I'm here for Russell.

MR. KANE: And we do have a proxy on file, I have a note.

MR. BABCOCK: Yes.

MR. KANE: Tell us what's going on, Phyllis.

MS. DRENNAN: Well, they're looking for a 12 foot side yard variance for a deck.

MR. KANE: For an existing attached pool deck?

MS. DRENNAN: Right.

MR. KANE: Do you know was there any cutting down of trees or substantial shrubbery in the building of the pool and the deck?

MS. DRENNAN: Not that I know of.

MR. KANE: Create any water hazards or runoffs?

MS. DRENNAN: No complaints.

MR. KANE: About how long has the deck and the pool been existing?

MS. DRENNAN: Four, two to four years, I'm not sure.

MR. KANE: During that time period, were there any complaints formally or informally about the deck and the pool?

MS. DRENNAN: No, she asked her next door neighbor, they didn't complain.

MR. KANE: Any easements going through where the pool and the deck are?

MS. DRENNAN: No, not that I know of.

MR. KANE: Since there's nobody here in the audience for it, I will open and close the public portion of the hearing. Michael, how many mailings did we have?

MR. BABCOCK: Five envelopes were mailed on the 5th day of May.

MR. REIS: Any responses, Mike?

MR. BABCOCK: No.

MR. KANE: Gentlemen, do you have any other questions?

MR. RIVERA: Accept a motion?

MR. KANE: Yes, I will.

MR. RIVERA: Make a motion that we grant Russell Kogge his requested 12 foot side yard setback for the existing attached pool deck at 9 Woodlawn Avenue.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE

May 24, 2004

18

MR. KANE

AYE

ANDREW FARAONE (04-28)

MR. KANE: Request for 9 foot rear yard setback for proposed 25 foot by 20 foot pool deck at 6 Guernsey Drive.

Mr. Andrew Faraone appeared before the board for this proposal.

MR. KANE: Tell us what you want to do, Andrew.

MR. FARAONE: We have recently took down a pool as well as the deck and we want to put the deck on the other side where it would be more convenient because of the fact that the way the land lies, it's actually on an incline, trying to put it so that it is more uniform to the pool.

MR. KANE: This is where the pool was or is that where you're going to put it?

MR. FARAONE: That's where the new pool will be going and that's where the old deck was, we're putting it on the other side.

MR. KANE: So in your judgment, moving the pool you're making the, you're putting the pool in a safer area in your yard?

MR. FARAONE: The pool will be in the same place, the deck will be in a safer area because it's not as steep on grade where it was originally. Also it's not as cumbersome, visible from the road, it's hidden behind trees.

MR. KANE: Cutting down any trees or substantial shrubbery with putting up the pool?

MR. FARAONE: Not at all.

MR. KANE: Creating water hazards or runoffs?

MR. FARAONE: No, sir.

MR. KANE: Pool and deck similar in size and nature to other pools and decks in your neighborhood?

MR. FARAONE: Yes, one next door, actually.

MR. REIS: Won't be encroaching on any easements or right-of-ways?

MR. FARAONE: No, not at all.

MR. KANE: Is the deck going to be separate from the house?

MR. FARAONE: Yes, it is, it's actually on another level.

MR. KANE: Even if that's passed tonight, you realize that you have to meet all the codes and standards by the building department?

MR. FARAONE: Yes, absolutely.

MR. KANE: I will ask at this point if there's anybody in the audience for this particular hearing? Seeing as there's none, we'll open and close the public portion of the hearing. Michael, how many mailings?

MR. BABCOCK: Seventy-six mailings on May 10th.

MR. REIS: Any responses?

MR. BABCOCK: No.

MR. KANE: Mike, Steve?

MR. RIVERA: No questions.

MR. KANE: No easements going through where the deck or pool is?

MR. FARAONE: No.

MR. KANE: I'll accept a motion.

MR. REIS: Make a motion that we grant Andrew Faraone's request for 9 foot rear yard setback for the proposed 25 x 20 foot pool deck at 6 Guernsey Drive.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE

DARRELL SORACE (04-30)

Mr. and Mrs. Darrell Sorace appeared before the board for this proposal.

MR. KANE: Request for 5.1 foot front yard setback for proposed 6 foot by 30 foot front porch at 239 Daniher Avenue. Speak up so the young lady can hear you.

MR. SORACE: Darrell Sorace

MRS. SORACE: Eve Marie Sorace.

MR. KANE: Tell us what you want to do.

MRS. SORACE: Myra wanted us to give you pictures. I only brought three copies. That's the existing--

MR. SORACE: Upon buying the house, as you can see, the front porch is a little in need of rehab of course.

MR. KANE: Definitely unsafe.

MR. SORACE: Our plan is to build a front covered porch going across the front of the home.

MR. KANE: Correct some safety issues?

MR. SORACE: Yes.

MRS. SORACE: Yeah, and use the front door.

MR. KANE: Will the proposed deck, the width on it extend any closer to the road than other homes in the area?

MRS. SORACE: It will.

MR. KANE: How much further, a lot or just a little bit?

MRS. SORACE: A little bit.

MR. SORACE: There's three homes down the way that have porches that stick out but they're not as wide.

MR. KANE: I'm concerned with close to the road.

MRS. SORACE: It comes out about probably going to come out to where this step is.

MR. KANE: Is it going to come out any further than the existing cement steps?

MRS. SORACE: With the steps probably not.

MR. KANE: Actually shorter?

MRS. SORACE: Probably the same.

MR. KANE: So you're not going to extend any further than you currently are right now?

MRS. SORACE: Correct.

MR. KANE: And the obvious question you're not going to be cutting down any trees or substantial shrubbery?

MRS. SORACE: No.

MR. KANE: Create any water hazards or runoffs?

MRS. SORACE: It will actually improve.

MR. KANE: Any complaints informally or formally about the existing porch except yours?

MRS. SORACE: Our neighbors can't wait for us to replace it as far as I know.



MR. KANE: We'll ask at this point if there's anybody in the audience for this particular hearing? There's not, so we'll open and close the public portion of the hearing. Mailings, Mike?

MR. BABCOCK: There was 74 mailings on May 10th and no responses.

MR. KANE: No responses, correct?

MR. BABCOCK: That's correct.

MR. KANE: No easements running through where the front porch is or the proposed front porch is going?

MR. SORACE: No.

MR. KANE: Any questions, Mike?

MR. REIS: No.

MR. RIVERA: No. Accept a motion?

MR. KANE: Yes, I will.

MR. RIVERA: I'll make a motion we grant Darrell Sorace the requested 5.1 foot front yard setback for proposed 6 foot by 30 foot front porch at 239 Daniher Avenue.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE

STRATEGIC HOMES (04-29)

Mr. Jerry Sabini appeared before the board for this proposal.

MR. KANE: We've got a little bit of bad news. The problem is there's three of us instead of five, we need three to be able to vote. Michael has to recuse himself which means that we'll need to postpone this hearing until the next zoning board meeting.

MR. SABINI: When is that going to be?

MR. KANE: That will be the second Monday in July.

MR. SABINI: That's as soon as we can do it?

MR. KANE: Don't have enough voting members, there's only two, you need at least three so with three even if you pass two to one, you don't pass.

MR. SABINI: What do I have to do?

MR. KANE: You don't need to do anything. I'm going to talk to Myra, let her know, we'll get it on the schedule.

MR. SABINI: July 2nd, but that's not the July 4th weekend, you're definitely going to have a meeting?

MR. KANE: Let me look at a calendar, see, Myra the secretary is the boss, we don't--

MR. SABINI: I understand, I know it's a busy weekend, everyone takes off.

MR. KANE: No, that's the first Monday, the 5th, so we're meeting, the first meeting that month will actually be the 12th.

MR. SABINI: Not until July 12th?

MR. KANE: The first is on a Thursday which means Monday the 5th is the first Monday of the--no.

MR. BABCOCK: Mr. Chairman, you're in July, we should be back in June.

MR. BABCOCK: Should be June 7th, June 14th.

MR. BABCOCK: Mr. Chairman, let me ask you a question, does this have to be readvertised or are you going to table it or how do we handle this?

MR. KRIEGER: No, it doesn't have to be readvertised.

MR. BABCOCK: We're letting the public that's here tonight know that that's the date?

MR. SABINI: Can I ask a question? On June 14th, I come before you then we have another meeting after that or is that going to be decision night?

MR. KANE: That's drop dead yes or no, it will happen on June 14th.

MR. SABINI: Thank you for your time.

GEORGE KAISER (04-31)

Mr. George Kaiser appeared before the board for this proposal.

MR. KANE: Request for 2 ft. maximum height for existing 6 ft. fence on a corner lot at 24 Split Tree Drive in an R-4 zone.

MR. KANE: Good evening, sir, tell us what you want to do, sir.

MR. KAISER: I'd like to get a variance for my fence, it's been existing for quite some time and I now find out it's supposedly illegal.

MR. KRIEGER: What's quite some time?

MR. KAISER: Thirty years.

MR. KANE: Approximately 30 years old, George, any complaints about the fence formally or informally?

MR. KAISER: No.

MR. KANE: And to your knowledge, there's no restriction of vision on the road on that side where the fence is?

MR. KAISER: One of the board members, Len McDonald, last time I was here he said that he lives on that same block and he's never had a problem.

MR. KANE: And got to ask it but there were no cutting down of trees or substantial shrubbery in the building of the fence 30 years ago?

MR. KAISER: No.

MR. KANE: No water hazards or creating any runoffs?

MR. KAISER: Actually, I solved a problem.

MR. KANE: Any complaints formally or informally about the fence?

MR. KAISER: As I said last time, a neighbor who lives in back had said that the fence caused a problem for backing out of his driveway out onto Willow Lane, Willow is a high traffic road so took the fence and I moved it eight foot in closer to my house and that solved the problem.

MR. KANE: Great.

MR. REIS: Fence not running over any easements or right-of-ways?

MR. KAISER: Not that I know of.

MR. KANE: Okay, at this point, I'll ask if there's anybody in the audience for this particular meeting? We'll open and close the public portion of the hearing and Michael, I'll ask you how many mailings we had?

MR. BABCOCK: Fifty-seven mailings on May 10th and no responses.

MR. KANE: Mike, any questions?

MR. REIS: I'm good. Accept a motion?

MR. RIVERA: I'm good.

MR. KAEN: Yes, I will.

MR. REIS: I make a motion that we grant Mr. George Kaiser his requested two foot maximum height variance for a 6 foot fence at 24 Split Tree Drive.

May 24, 2004

29

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE

DISCUSSION:HIGHVIEW ESTATES-KINGS ROAD

MR. BABCOCK: The Highview Estates up on Kings Drive came in to get a variance, it was in an OLI zone and they got a use variance to build a house there, it's on a triangle lot cause the road used to go through, Mr. Biagini was here. The people across the street, one of the occupants that was in the audience asked what size house was going to be there and Mr. Biagini said 2,800 square feet, 2,800 square foot house and you said, Mr. Chairman said we're going to stick that to you if that's what you're saying you're building that's what we want, it's going to be part of the variance. So I suggested that we rounded it off to 3,000 square feet. He came in with a building permit application, the way that we calculated the square footage is we do all the square footage of the basement, first floor, second floor, the decks and the garage, the room above the garage and we came up with excess of 3,000 square foot. So that's what I want to ask the board does he have to come back to get a new variance to go above that or how do we handle that?

MR. KANE: No, we gave him a variance with specific sizes in it, according to my feeling is that he has to stick with what our agreement was when we had that discussion here. I don't know, Andy, if he has a right to come back, he may have a right and he can, I would say at that point I would look at voiding out the first variance and then having a new discussion on it, but I don't, I think we already decided it, he may have a legal right to come back and request it.

MR. KRIEGER: Basically he has a choice if he wants a bigger building then he's going to have to come back in front of the board and ask for it or choice number 2 is he can reduce it to fit in the envelope of the variance he's got. Those are the two things. Now in essence by

reapplying he doesn't necessarily void out the first variance, however, that's a variance that remains and he's stuck with it, he may not get anymore or he may, I mean, you know, so whether it's voided out or not is sort of an academic question if you will.

MR. KANE: So he has that variance if he wants to extend it, come back in, but if we give him a new variance, we can change whatever we want to nullify in the first one.

MR. KRIEGER: That's right. If you give him a new variance, you can make it a condition of the old one.

MR. BABCOCK: My problem is that the house I don't think, I don't want to go on record saying for sure, I don't think the size of the house changed in what he had shown the board. What's changing is that he said 2,800 square feet so if he was going to advertise that house for sale, he would say 2,800 square foot of livable space and he may be there but when we include the decks and the garages and the rooms above the garages, they call it a great room, you know, and then they're going to, they may do some finishing touches later, that's part of the living room.

MR. KANE: But does the deck include inside with the house on that first C.O.?

MR. BABCOCK: Yes.

MR. KANE: Doesn't have its own C.O.?

MR. BABCOCK: If he come in at a later day, if you build the deck same time as the house, it's the same thing. What my problem is if the neighbor comes in, they were, really wanted to know what size the houses were. I'm going to tell you they're building houses across the street that's probably 5,000 square feet.



MR. REIS: Michael, when we, I don't remember the verbiage but for your purposes, when you say square feet, you're talking about again the basement, the decks?

MR. BABCOCK: Well, the formal decision that you sent to me, Andy, says the house cannot exceed 3,000 square feet.

MR. REIS: Of living space?

MR. BABCOCK: No, 3,000 square feet it says.

MR. KANE: How far did he go over?

MR. BABCOCK: Quite a bit. This is what we can do, we can tell him to reduce the size of the deck and put a very small deck on, take the great room over the garage out and just call it storage but we're not getting anywhere, Mr. Chairman, what happens it becomes what it is, it is what it is.

MR. KANE: And he will be back for a deck anyway.

MR. BABCOCK: And the neighbors are going to come to me and say the zoning variance for 3,000 square feet, this is more than 3,000 square feet so next time when we do that, we have to specify 3,000 square foot of livable space or the building envelope or something, I mean, he has an argument I think because typically--

MR. KANE: How do you feel about it?

MR. BABCOCK: I want the record clear so I don't have any problem with the neighbors when he goes to sell his house.

MR. KANE: If he was close and we were just talking on the back of the deck, my own personal feeling, not speaking for Steve or Mike is that I probably wouldn't

have a problem because I wouldn't consider the deck as, I don't think we were talking about the deck, but it sounds like it's a lot more than just that.

MR. BABCOCK: Mr. Chairman, you gentlemen normally don't put conditions on variances, you did put it on this one, so I felt there was a reason that you did and therefore, we need to comply with it.

MR. KANE: Yeah, he would have to come back.

MR. BABCOCK: Okay.

MR. KANE: Motion to adjourn?

MR. RIVERA: So moved.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE

Respectfully Submitted By:

  
Frances Roth  
Stenographer

5/26/04